

**CONCURRING STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN**

Re: TCI Cablevision of New Mexico, Inc., Memorandum Opinion and Order (CSR 5654-A); TCI Cablevision of New Mexico, Inc., Memorandum Opinion and Order (CSR 5623-A, CSR 5598-M); and Comcast Cablevision of New Mexico, Inc., Memorandum Opinion and Order (CSR 5508-A, CSR 5486-M)

In these cases we are called upon to examine whether the Bureau correctly excluded communities for must carry purposes from the market of a television station that offers religious, sometimes Hispanic religious, programming. Given that the stations are located on average hundreds of miles from the communities and that the extent of the local programming is not clear, I concur in the decision to exclude the communities. I write separately, however, to emphasize adherence to our longstanding specialty station policies under which a station's inability to show historic carriage and viewership is not decisionally significant.

Under section 614(h)(1)(C), the Commission may exclude communities from a station's television market to better effectuate the purposes of the must carry statute, focusing on the value of localism by taking into account certain factors. The Commission has long recognized that specialty stations, such as religious stations or stations broadcasting in a language other than English, often fail to have historic carriage or appreciable audience shares due to the nature of their programming. Yet this does not necessarily mean they are not serving the communities. To hold otherwise would effectively prevent weaker stations from ever obtaining carriage rights. Unfortunately, in these cases the Bureau appears to have given short shrift to the specialty status of these stations and deemed the lack of historic carriage and viewership of evidentiary significance.

The Bureau also maintains that none of the programming at issue was specifically tied to the communities in question. I believe a more in-depth examination is warranted. For example, Prime Time Christian Broadcasting maintains that it offers regular daily segments for local churches to broadcast announcements, promotional spots, and interviews. The station also offers several hours of Spanish-language religious programming. I caution the Bureau not to discount too readily the potential for this programming to serve the local communities. The Bureau should be more mindful of the ways in which local religious and Spanish-language programming can serve the needs of the communities.